

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN RE: )  
 )  
TIMOTHY P. BURNETT and ) Case No. 21-10052  
VICKI A. BURNETT, )  
Debtors. )

ORDER OVERRULING OBJECTION TO CLAIM

This case is before the court on the debtors' objection (doc. 33) to claim no. 3 filed by Discover Bank in this chapter 13 bankruptcy case. Discover Bank filed the claim as a secured claim based on a prepetition judgment lien. The debtors ask the court to reclassify the claim as unsecured due to an alleged lack of non-exempt equity to which the lien could attach.

Discover Bank is an insured depository institution. The debtors did not properly serve the objection as required by Rules 3007 and 7004(h) of the *Federal Rules of Bankruptcy Procedure* because the debtors did not serve the bank at both the address on the proof of claim form and by certified mail addressed to an officer of the institution.

Regardless, the court cannot grant the relief requested because the debtors have not avoided the judgment lien under Bankruptcy Code § 522(f) and the lien is not void under Code § 506(d). *See* 11 U.S.C. § 522(c); *see also generally In re Zyk*, No. 18-00430, 2019 WL 1282783 (Bankr. D.D.C. Mar. 18, 2019). Until the judgment lien is avoided, it remains enforceable even against exempt property pursuant to Code § 522(c). In this case, while the debtors' residence appears to be fully encumbered by a mortgage loan, the judgment lien also attaches to any equity in the debtors' personal property under Alabama law. *See* Ala. Code § 6-9-211; *see also, e.g., In re Lett*, 632 F.3d 1216, 1221 n.8 (11th Cir. 2011) ("Under Alabama law, [a] recorded judgment lien [i]s a lien on any real or personal property owned by [a debtor], subject to existing liens and encumbrances."); *In re Hooper*, 555 B.R. 47, 54-55 (Bankr. M.D. Ala. 2016).

The court thus overrules the objection. If the debtors intend to file a motion to avoid judgment lien, they should do so promptly so as not to hold up confirmation of this case.

Dated: March 3, 2021

  
HENRY A. CALLAWAY  
CHIEF U.S. BANKRUPTCY JUDGE